



OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTTLE

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ORDINANCE NO. 111099 - RTO

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PINAL COUNTY, ARIZONA, PROVIDING FOR THE REMOVAL OF RUBBISH, TRASH, WEEDS, FILTH, DEBRIS AND DILAPIDATED BUILDINGS; VIOLATION; CLASSIFICATION; REMOVAL BY COUNTY; COSTS ASSESSED; COLLECTION; PRIORITY OF LIEN; DEFINITIONS

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PINAL COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Definitions.

- 1.1 In this ordinance, unless the context otherwise requires, "County" means Pinal County, or any of its departments, offices or agencies.
- 1.2 "Dilapidated building" means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety or property of the public.
- 1.3 "Occupant" does not mean any corporation or association operating or maintaining rights of way for and on behalf of the United States of America, either under contract or under federal law.

SECTION 2. Misdemeanor Violation

- 2.1 Any person, firm or corporation that places any rubbish, trash, filth or debris upon any

private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation is guilty of a class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this section, is liable for all costs which may be assessed pursuant to this section for the removal of the rubbish, trash, filth or debris.

SECTION 3. Notice of Civil Violation and Appeal of Notice

- 3.1 A person, firm or corporation shall have committed a Civil Violation of this ordinance if such a person places, permits or provides for rubbish, trash, weeds, filth, debris, or dilapidated buildings to remain upon property of which they are owner, lienholder, lessee or occupant, or upon contiguous sidewalks, streets or alleys dedicated and open to the public.
- 3.2 Upon reasonable belief that a Civil Violation of this ordinance has occurred, the County shall provide Notice of Civil Violation in writing which shall be served upon the owner, any lienholder, occupant or lessee by personal service, or by certified United States mail at his last known address, or at the address to which the tax bill for the property was last mailed. If the owner does not reside upon the property, a duplicate of the notice shall also be sent to the owner at the owner's last known address.
- 3.3 The Notice of Civil Violation shall provide that any person with an interest in the property, including an owner, lienholder, lessee or occupant of the buildings, grounds or lots, after notice, shall have thirty (30) days from the date of the Notice to remove any rubbish, trash, weeds, filth, debris or dilapidated buildings upon the property or contiguous sidewalks, streets and alleys, and abate the condition which constitutes a hazard to public health and safety, and if not, the County may remove, abate, enjoin, or cause the removal of the rubbish, trash, weeds, filth, debris or dilapidated buildings at the expense of the owner. The Notice shall state the estimated cost to the County for the removal. If the owner, lienholder, lessee or occupant of the noticed property abates the condition, a receipt from a State approved Landfill or Recycling Facility for the removed material shall be furnished to the Pinal County Department of Public Works within 30 days of the date of the Notice.
- 3.4 The Notice of Civil Violation shall provide that the owner, any lienholder, occupant or lessee shall have ten (10) days from the date the Notice was issued to file an appeal to the Board of Supervisors. The date of mailing the appeal shall be the date of filing. All appeals of Notices of Civil Violation shall be in writing and shall specify the grounds for appeal. The appeal shall be filed with the Clerk of the Board of Supervisors.
- 3.5 The Board of Supervisors shall hear the appeal within thirty (30) days after receipt of the appeal. Written notice of the hearing shall be provided to the appropriate County departments and to the owner, any lienholder, occupant or lessee. The Board of Supervisors shall determine based upon a preponderance of the evidence whether a violation of the ordinance has occurred and shall issue its findings in writing upholding or reversing the Notice

of Civil Violation. The decision of the Board of Supervisors shall be final.

SECTION 4. Order of Abatement.

- 4.1 If an appeal has not been filed within ten (10) days after issuance of the Notice of Violation, or if the Board of Supervisors has issued a written Order denying an appeal, thereafter, upon the expiration of thirty (30) days from the Notice of Civil Violation, the County shall issue an Order of Abatement directing removal and abatement of all rubbish, trash, weeds, filth, debris or dilapidated buildings from the lot, parcel, tract or other property. The removal and abatement may be done by the County using either County employees or by utilizing contractors. The Order shall be in writing and signed by the County Manager or his designee. The Order shall include the estimated cost for removal and abatement, incidental legal costs and a five (5%) percent surcharge. The Order of Abatement may include an Order of Injunction, enjoining future violations of this ordinance.
- 4.2 A copy of the Order of Abatement shall be posted upon the subject property. The Order shall also be sent by certified United States mail to the owner, any lienholder, occupant or lessee at their last known address, or the most recent address to which a tax bill for the property was mailed. If the owner does not reside on the property a duplicate of such Orders shall also be sent to the owner at the owner's last known address.
- 4.3 After ten (10) days have elapsed from the date of issuance of the Order of Abatement, the County, its employees or contractors may enter upon said property and remove and abate all rubbish, trash, weeds, filth, debris or dilapidated buildings from any lot, parcel or tract which is the subject of the Order of Abatement. Before removal of a dilapidated building, the Board of Supervisors shall consult with the State Historic Preservation Officer to determine if the building is of historical value. If the County removes a dilapidated building pursuant to this section, the County Assessor shall adjust the valuation of the property on the property assessment tax rolls from the date of removal.

SECTION 5. Order of Assessment.

- 5.1 Within sixty (60) days after the County, its employees or contractors have removed or abated all rubbish, trash, weeds, filth, debris or dilapidated buildings from any lot, parcel, tract or property pursuant to this Ordinance, the County shall issue an Order of Assessment. The Order of Assessment shall be in writing and shall list the common address, legal description and tax parcel number of the property. The amount of the Order of Assessment shall be the actual cost of removal, associated legal costs, and the five (5%) per cent surcharge levied by the County which shall be shown together with the total cost on the Order. The Order shall be signed by the County Manager or his designee and shall be recorded in the Office of the Pinal County Recorder. The Order shall include the date and amount of the assessment and the legal description of the property. The Order of Assessment

shall state that the assessment shall bear interest from the date of Assessment in an amount calculated and determined in the same manner and method as delinquent property taxes pursuant to A.R.S. § 42-384 B. The Order of Assessment shall state that the assessment shall be paid to the Pinal County Treasurer.

5.2 The Order of Assessment shall contain the following notice in Bold face print:

NOTICE: THIS ORDER OF ASSESSMENT PURSUANT TO A.R.S. §11-268.D. SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THIS ORDER IN FAVOR OF PINAL COUNTY. THE COUNTY MAY TAKE LEGAL ACTION TO FORECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS INDICATED IN THE ORDER OF ASSESSMENT.

5.3 The County Treasurer's Office shall include with the County tax bill a separate statement showing the total amount of the assessment including accumulated interest. Assessments imposed under this Ordinance run against the property until they are paid and are due and payable in equal annual installments as follows:

- a) Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
- b) Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
- c) Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
- d) Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.
- e) Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.

5.4 An Assessment recorded pursuant to this Ordinance is prior and superior to all other liens, obligations or other encumbrances except liens for general taxes and prior recorded mortgages. A sale of the property to satisfy an assessment obtained under this section shall be made on judgment of foreclosure and order of sale. The recorded Assessment is prima facie evidence of the truth of all matters recited in the Assessment and the regularity of all proceedings before the recording of the Assessment. The Order of Assessment may also be filed in the Office of the Pinal County Treasurer. A prior assessment under this Ordinance is not a bar to a subsequent assessment of assessments under this ordinance and any number of liens pursuant to this ordinance may be enforced in the same action.

Section 6. Appeals from Orders of Assessment

6.1 The Order of Assessment shall state that the owner, any lienholder, lessee or occupant shall have ten (10) days from the date of issuance to appeal the amount of assessment levied

by the County. The appeal of an Order of Assessment shall be filed with the Clerk of the Board of Supervisors. The date of filing shall be the date of mailing of the appeal, or of actual filing with the Clerk. All appeals of orders of assessment shall be in writing and shall specify the grounds for appeal of the assessment. Only the amount of assessment may be appealed. The Board of Supervisors shall not hear any appeals of violations upon appeal of an Order of Assessment.

- 6.2 The Board of Supervisors shall hear the appeal of the Order of Assessment within thirty (30) days after receipt of the written notice of appeal. Written notice of the hearing shall be provided to the appropriate County departments and to the owner, lienholder, occupant or lessee. The Board of Supervisors shall determine based upon a preponderance of the evidence whether the assessment was made in accordance with the provisions of this ordinance and whether the amount assessed actually covers the costs incurred by the County. The Board shall issue its findings in writing upholding or modifying the amount of assessment. The decision of the Board of Supervisors shall be final.

SECTION 7. Lien Enforcement

- 7.1 The County Treasurer shall maintain a list of all delinquent assessments made pursuant to this ordinance. All assessments sixty (60) days delinquent shall be forwarded to the County Manager for review. If the County Manager determines that the value of all other liens having priority over the assessment does not exceed the value of the property, the County Attorney may commence legal action to foreclose the lien and request the Superior Court to order the property sold and the proceeds used to pay off all liens having priority, and the assessment, surcharge and interest.
- 7.2 If the County Manager determines that the value of the assessment, surcharge and interest, together with the value of all other liens having priority over the assessment exceeds the value of the property, the County Attorney need not commence legal action to foreclose the lien. However, the County Manager and the County Attorney shall be empowered to negotiate on the County's behalf with parties holding liens which have priority on the property. Any agreement waiving part or all of an assessment, surcharge and interest shall be submitted to the Board of Supervisors for approval.
- 7.3 After payment of any superior lien or upon satisfactory waiver thereof by any superior lienholder, upon payment in full of an assessment, surcharge and interest, or waiver of any unpaid portion of an assessment, surcharge or interest by the Board of Supervisors and payment in full of the unwaived portion of the assessment, surcharges and interest, the County Manager shall cause a Notice of Satisfaction of Assessment to be recorded in the Office of the County Recorder. The Notice shall contain the name of the owner of the property; the tax parcel number; the common street address; and the legal description of the subject property. The Notice shall refer to the date of the Order of Assessment and the docket and page number in the Office of the County Recorder where such order is recorded.

BE IT FURTHER ORDAINED as follows:

- 8.1 Ordinance No. 70290-RTO, adopted July 2, 1990, by the Board of Supervisors, known as the Rubbish and Trash Ordinance, IS HEREBY REPEALED in it's entirety.
- 8.2 The adoption of this Ordinance or the repeal set forth above shall not be construed as abating any action now pending under, or by virtue of, the above described repealed Ordinance, or affect or prevent the prosecution or punishment of any person for the violation of any it's provisions or for an offence committed prior to the repeal; or as affecting the liability of any person, firm or corporation; or as waiving any right of the County under any section or provision existing at the time of adoption of this ordinance.
- 8.3 This Ordinance shall take effect thirty (30) days from the date passed and adopted by the Pinal County Board of Supervisors.

PASSED AND ADOPTED this 10th day of November, 1999, by the Board of Supervisors of Pinal County, Arizona.



A handwritten signature in black ink, appearing to read "Lionel Ruiz", is written over a horizontal line.

Lionel Ruiz
Chairman of the Board

ATTEST:

A handwritten signature in black ink, appearing to read "Stanley D. Griffis", is written over a horizontal line.

Stanley D. Griffis, Ph.D
Clerk of the Board